

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

MARY R. WONG,

Defendant.

CASE NO. 8:09CR328

TENTATIVE FINDINGS

The Court has received the Presentence Investigation Report (“PSR”) and the parties’ objections thereto (Filing Nos. 71, 72). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

¶ 44 - Number of Victims

Both parties object to the enhancement under U.S.S.G. § 2B1.1(b)(2)(A) for the involvement of 10 or more victims. The government argues that the number of provable victims is 8. The parties' objections to ¶ 44 are granted.

¶¶ 35, 46 - Abuse of Trust

The Defendant objects to the enhancement under U.S.S.G. § 3B1.3 for abuse of a position of private trust. The objection will be heard at sentencing, and the government has the burden of proof by a preponderance of the evidence.

¶¶ 40, 50 - Acceptance of Responsibility

The Defendant objects to the lack of an adjustment for acceptance of responsibility under U.S.S.G. § 3E1.1. The objection will be heard at sentencing, and the Defendant has the burden of proof by a preponderance of the evidence.

IT IS ORDERED:

1. The government's objection to ¶ 44 (number of victims) of the PSR (Filing No. 72) is granted;
2. The Defendant's objections to ¶¶ 35 and 46 (abuse of trust) and ¶¶ 40 and 50 (lack of acceptance of responsibility) will be heard at sentencing, and the Defendant's objection to ¶ 44 (number of victims) is granted;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and
5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 13th day of December, 2010.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge